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Form DC-135A

Commonwealth of Pennsylvania
Department of Corrections

INMATE'S REQUEST TO STAFF MEMBER

INSTRUCTIONS

Complete items number 1-8. If you follow instructions in preparing your request, it can be responded to more promptly and intelligently.

1. To: (Name and Title of Officer)

MS. KUSIAK

2. Date:

9/26/06

3. By: (Print Inmate Name and Number)

RYAN KERWIN DZ0246

4. Counselor's Name:

MR. BRUMAGIN

5. Unit Manager's Name:

MS. KESSLER

6. Work Assignment:

GLP

7. Housing Assignment:

B-A 21

8. Subject: State your request completely but briefly. Give details.

As per your instructions, here is my request to review the documents sent to you by the Office of Attorney General.

9. Response: (This Section for Staff Response Only)

Ms. Kerwin

I am forwarding this request to medical records along with all provided documents. You may view these documents in conjunction with the scheduled review of your medical records. You will be charged for copies of both these documents as well as the medical records at a rate of \$.10 per copy. Your selected copies will be provided once your cash slip is processed for the total. You will not be charged search and retrieval fees for either set of documents.

If you have any further questions, please contact my office or request slip.

To DC-14 CAR only ☐To DC-14 CAR and DC-15 IRS ☒

STAFF MEMBER NAME

MS. KUSIAK
PrintMS. Kerwin
Signature

DATE

10/2/06

OVERN
McMillan - Gary
File

EXHIBIT "A"

You were not charged to review the records, but your requests for copies is subject to the DOC records



COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

TOM CORBETT
ATTORNEY GENERAL

Office of Attorney General
6th Floor, Manor Complex
564 Forbes Avenue
Pittsburgh, PA 15219

October 17, 2006

Anthony Defranco
10745 Route 18
Albion, PA 16475-0002

Re: ***Anthony Defranco v. Wolfe, et al.***
Civil Action No. 04-230E

Dear Mr. Defranco:

This is in response to your letter of October 9, 2006 concerning fees charged by the Department of Corrections for the medical and DC-15 file records you requested. While you state that you objected to these charges, I do not recall your raising this issue, certainly not back in April or May when you reviewed the records and made the requests for copies. In addition, I believe that we made it clear in our discovery responses that any requests for copies would be at your own expense.

As you know, DOC policy establishes the fees charged for retrieval and copying of medical records, and those charges are all within the parameters of the Pennsylvania Medical Records Act. You were not charged to review the records, but your requests for copies is subject to the DOC records policy. The fact that an inmate litigant claims IFP status or makes his request as part of the discovery process does not excuse him from paying for records requested. While you make reference to inmate Kerwin, his litigation and the issues before the court in that case were quite different. The DOC had valid reasons for strategic decisions in that case, reasons which have nothing to do with your situation or the issues in your case. Therefore, you must pay the various retrieval and copying charges (which I understood to be approximately \$51 for the medical records) in order to obtain the copies you requested.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mary L. Friedline".

Mary L. Friedline
Senior Deputy Attorney General

MLF:ah

EXHIBIT "B"

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

RYAN KERWIN,

PLAINTIFF

V.

BEN VARNER; *et al.*,

DEFENDANTS

No. 1:03-CV-2253

(JUDGE CALDWELL)

ELECTRONICALLY FILED DOCUMENT

DECLARATION OF KIM MCMILLAN-GRAY

I, Kim McMillan-Gray, declare under penalty of perjury as provided for in 28 U.S.C. § 1746 that the following facts are true and correct and based upon my personal knowledge:

1. I am employed as a medical technician for the Pennsylvania Department of Corrections (Department) and assigned to the State Correctional Institution at Albion.
2. I was the employee to whom plaintiff Ryan Kerwin ("Kerwin"), DZ-0246, reported concerning production of his medical records.
3. When Kerwin reported I explained that under the applicable policy, DC-ADM 003-1 (issued December 12, 2005, and effective January 1, 2006) he had to pay a retrieval fee of \$18.30 and per page charges for any copies ordered as established by that policy. Kerwin was dissatisfied with my statement and I showed him the policy (as I often do when inmates request copies of their medical records). The exhibit attached

EXHIBIT "C"

Declaration of Kim McMillan-Gray
Page 2 of 2

~~to this declaration is a true and correct copy of the policy I showed Kerwin.~~

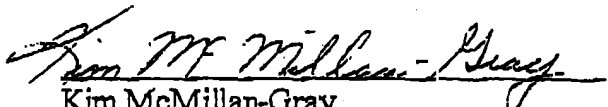
4. Kerwin brought up the name of defense counsel, Francis Filipi -- not me. Moreover, when Kerwin asked or asserted that the charges I mentioned were at the direction of Filipi I corrected him, stating that the charges were mandated by the policy.

5. Contrary to Kerwin's assertion in his motion, I never told Kerwin that Filipi had informed me of what, if any, options were available to him. In fact, until October 17, 2006, when I spoke to Filipi concerning preparation of this declaration, I had never spoken to him.

6. It is my understanding that at the direction of the chief counsel, the charges stated in DC-ADM 003-1 are being waived in this instance and that Kerwin will be permitted to purchase copies at ten cents per page.

7. However since my one meeting with Kerwin, he has not returned to obtain copies of the records. Perhaps this is because he stated during our meeting that once defense counsel obtains a copy he will be able to demand a free copy from him through discovery.

Executed this 18 day of
October, 2006


Kim McMillan-Gray
State Correctional Institution at Albion
Pennsylvania Department of Corrections